HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Revision No. 182 of 2001
(Old No. 944/1993)

Munni Dass S/o Late Sri Balak Dass
R/o Kandi, Patti Valla Udaipur
Tehsil Kotdwar
District Garhwal ……Revisionist

Vs.

State of Uttaranchal ……Respondent

Hon'ble Irshad Hussain, J.

None appear for the revisionist. Heard Sri Nandan Arya learned A.G.A and perused the record.

This criminal revision under Section 397/401 of the Code of Criminal Procedure (for short 'Code') against the judgment and order dated 25.5.1993 passed by the then Sessions Judge, Pauri Garhwal in criminal revision no. 6/1993.

The said criminal revision before the Sessions Judge was preferred against the judgement and order dated 29.1.1993 passed by the S.D.M., Kotdwar in criminal case no. 15/1999; Munni Dass Vs. Shiv Dayal under section 145 of the Code, whereby the possession was directed to be delivered to the first party-Munni Dass by the learned Magistrate.

Aggrieved, the second party Shiv Dayal preferred the revision before the Sessions Judge which was allowed and said second party was held to be in possession on the date of the preliminary order and two months next preceding the same. Feeling dissatisfied the first party has come up before this court.

The finding of the Sessions Judge as is evident from the record is based on proper and fair appraisal of the material on record. In revision the learned Sessions Judge had considered the submission of the revisionist and was of the view that the application under section 145 of the Code was preferred by Munni Dass after a period of one year from the date of possession being obtained by the opposite party-Shiv Dayal. The

evidence to this effect was adduced which was found reliable. Therefore, the learned Sessions Judge did not find himself in agreement with the view taken by the learned Magistrate and the revision was allowed and the possession of the second party was upheld during the relevant period and it was directed that the first party file a suit for possession before the competent court. The judgment of the Sessions Judge is based on proper and fair appraisal of the material on record. Therefore, there is no merit in this revision and the same is dismissed in limine.

(Irshad Hussain, J.)

Dated 04.06.2004

Rawat